

**Executive Summary – Enforcement Matter – Case No. 48771**

**NCI Group, Inc.**

**RN100213545**

**Docket No. 2014-0804-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

NCI Building Systems, 7301 Fairview Street, Houston, Harris County

**Type of Operation:**

Pre-engineered metal buildings manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 3, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,150

**Amount Deferred for Expedited Settlement:** \$3,030

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$6,060

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$6,060

Name of SEP: Anahuac Independent School District (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** May 5, 2014 and September 2 through September 12, 2014

**Date(s) of NOE(s):** May 15, 2014 and October 1, 2014

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**NCI Group, Inc.**

**RN100213545**

**Docket No. 2014-0804-AIR-E**

***Violation Information***

1. Failed to reference all Permits by Rule (“PBRs”) within the Federal Operating Permit (“FOP”). Specifically, the Respondent did not include the PBRs for welding, hand-held machining, degreasers, emergency generators, repairs and maintenance, and wastewater treatment within FOP No. O-1773 [30 TEX. ADMIN. CODE §§ 122.121 and 122.210(a) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)].
2. Failed to submit two deviation reports no later than 30 days after the end of the reporting period. Specifically, the deviation report for the April 27, 2013 through October 26, 2013 reporting period was due by November 25, 2013 and the deviation report for the October 27, 2013 through April 26, 2014 reporting period was due by May 25, 2014, but they were not submitted until December 20, 2013 and September 12, 2014, respectively [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-1773, General Terms and Conditions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On April 1, 2014, submitted a minor revision application to reference all PBRs within FOP No. O-1773; and
- b. By September 12, 2014, submitted the deviation reports for the April 27, 2013 through October 26, 2013 and October 27, 2013 through April 26, 2014 reporting periods that reported the failure to include authorized PBRs in FOP No. O-1773.

**Technical Requirements:**

1. The Order requires the Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See Attachment A)
2. The Order will also require the Respondent to:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit revision application for FOP No. O-1773 within 30 days after the date of such requests, or by any other deadline specified in writing;
  - b. Within 30 days, implement measures and/or procedures to ensure that semi-annual deviation reports are submitted within the required timeframe;

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**Docket No. 2014-0804-AIR-E**

c. Within 45 days, submit written certification to demonstrate compliance with 2.b.; and

d. Within 180 days, submit written certification that either the revision for FOP No. O-1773 has been obtained or that operation of the emission sources under the aforementioned PBRs cease until such time that the FOP is revised.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Farhaud Abbaszadeh, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-0779; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Todd Harbour, Vice President, Environmental Affairs, NCI Group, Inc., 10943 North Sam Houston Parkway West, Houston, Texas 77064

**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2014-0804-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>NCI Group, Inc.</b>
<b>Penalty Amount:</b>	<b>Twelve Thousand One Hundred Twenty Dollars (\$12,120)</b>
<b>SEP Offset Amount:</b>	<b>Six Thousand Sixty Dollars (\$6,060)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Anahuac Independent School District</b>
<b>Project Name:</b>	<b><i>Clean School Bus Project</i></b>
<b>Location of SEP:</b>	<b>Chambers County; Texas Air Quality Control Region 216, Houston - Galveston</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Anahuac Independent School District** for the *Clean School Bus Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to purchase a lower-emission school bus that is model year 2010 or newer ("Replacement Bus") to replace a bus that is model year 1995 ("Older Bus"), thus removing the Older Bus from the roads. The Third-Party Administrator shall ensure that the Replacement Bus has an engine that meets 2010 EPA Standards. The Third-Party Administrator certifies that the Older Bus is currently in use, driven on a regular route on a weekly basis for at least the past two years. The Third-Party Administrator shall own and operate the Replacement Bus for at least five years following the date of purchase. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

NCI Group, Inc.  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The SEP will benefit air quality by reducing harmful exhaust emissions from an older school bus. Older school bus engines emit larger amounts of nitrogen oxides and particulate matter, as well as other harmful pollutants such as volatile organic compounds and carbon monoxide than new buses. These pollutants contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children. The Project will reduce these emissions by replacing a model year 1995 school bus with a new, lower-emission bus.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Anahuac Independent School District SEP** and shall mail the contribution with a copy of the Agreed Order to:

Anahuac Independent School District  
Attention: Rosie Womack, Business Manager  
P.O. Box 638  
Anahuac, Texas 77514

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

NCI Group, Inc.  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

NCI Group, Inc.  
Agreed Order - Attachment A

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	19-May-2014	<b>Screening</b>	2-Jun-2014	<b>EPA Due</b>	
	<b>PCW</b>	24-Jun-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	NCI Group, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN100213545		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48771	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0804-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Farhaud Abbaszadeh
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,750
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	42.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,575
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Notes: Enhancement for two NOV's with same/similar violations, six NOV's with dissimilar violations, and one order with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$101  
Approx. Cost of Compliance: \$3,500  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$5,325
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$5,325
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,325
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,065
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$4,260
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Screening Date 2-Jun-2014

Docket No. 2014-0804-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 4 (April 2014)

Case ID No. 48771

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Farhaudd Abbaszadeh

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 42%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for two NOVs with same/similar violations, six NOVs with dissimilar violations, and one order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 42%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 42%

Screening Date 2-Jun-2014

Docket No. 2014-0804-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 4 (April 2014)

Case ID No. 48771

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Farhaud Abbaszadeh

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.121 and 122.210(a) and Tex. Health &amp; Safety Code §§ 382.054 and 382.085(b)

## Violation Description

Failed to reference all Permits by Rule ("PBRs") within the Federal Operating Permit ("FOP"). Specifically, the Respondent did not include the PBRs for welding, hand-held machining, degreasers, emergency generators, repairs and maintenance, and wastewater treatment within FOP No. O-1773.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

28 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the FOP revision.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$101

Violation Final Penalty Total \$5,325

This violation Final Assessed Penalty (adjusted for limits) \$5,325

# Economic Benefit Worksheet

Respondent NCI Group, Inc.  
Case ID No. 48771  
Req. Ent. Reference No. RN100213545  
Media Air  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/Construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	\$0	\$0
Record Keeping System			0.00	\$0	\$0	\$0
Training/Sampling			0.00	\$0	\$0	\$0
Remediation/Disposal			0.00	\$0	\$0	\$0
Permit Costs	\$3,500	5-May-2014	2-Dec-2014	0.58	\$101	\$101
Other (as needed)			0.00	\$0	\$0	\$0

### Notes for DELAYED costs

Estimated cost to submit a minor revision to include all PBRs within FOP No. O-1773. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/Equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

### Approx. Cost of Compliance

\$3,500

### TOTAL

\$101

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603418831, RN100213545, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN603418831, NCI Group, Inc.

**Classification:** SATISFACTORY

**Rating:** 2.52

**Regulated Entity:** RN100213545, NCI BUILDING SYSTEMS

**Classification:** SATISFACTORY

**Rating:** 4.48

**Complexity Points:** 15

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 7301 FAIRVIEW STREET HOUSTON, TEXAS 77041-2105, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG1413D

**POLLUTION PREVENTION PLANNING** ID NUMBER

P00426

**AIR NEW SOURCE PERMITS** REGISTRATION 48749

**AIR NEW SOURCE PERMITS** AFS NUM 4820101258

**WASTEWATER** PERMIT WQ0012552001

**WASTEWATER** PERMIT WQ0012552002

**STORMWATER** PERMIT TXR05M145

**AIR OPERATING PERMITS** PERMIT 1773

**AIR NEW SOURCE PERMITS** PERMIT 17210

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG1413D

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION

1012326

**WASTEWATER** EPA ID TX0090115

**WASTEWATER** EPA ID TX0117064

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER

HG1413D

**Compliance History Period:** September 01, 2008 to August 31, 2013

**Rating Year:** 2013

**Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** June 24, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 23, 2009 to May 23, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Farhaud Abbaszadeh

**Phone:** (512) 239-0779

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 05/02/2013 ADMINORDER 2012-1847-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:General Terms & Conditions OP  
Description: Failure to submit a PCC form within the 30 day deadline from the end of the compliance period. A12.i.(7)  
Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.247(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:STC No. 5.B. OP

Description: Failure to submit the monthly gasoline throughput for 2010 and 2011 to maintain an exempt status.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:General Terms & Conditions OP

Description: Failure to submit a deviation report within 30 days after the end of the reporting period.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	June 15, 2009	(771675)
Item 2	July 17, 2009	(815103)
Item 3	August 31, 2009	(815104)
Item 4	September 17, 2009	(815105)
Item 5	October 13, 2009	(815106)
Item 6	November 20, 2009	(815107)
Item 7	December 17, 2009	(815108)
Item 8	January 20, 2010	(815109)
Item 9	February 19, 2010	(818767)
Item 10	March 10, 2010	(834494)
Item 11	April 16, 2010	(834495)
Item 12	May 19, 2010	(834496)
Item 13	June 18, 2010	(847382)
Item 14	July 16, 2010	(861818)
Item 15	July 26, 2010	(794243)
Item 16	August 19, 2010	(868242)
Item 17	September 01, 2010	(960537)
Item 18	September 20, 2010	(875157)
Item 19	October 20, 2010	(882769)
Item 20	November 18, 2010	(889174)
Item 21	December 14, 2010	(897551)
Item 22	January 19, 2011	(903442)
Item 23	February 18, 2011	(910356)
Item 24	March 30, 2011	(900091)
Item 25	April 13, 2011	(905484)
Item 26	April 19, 2011	(930175)
Item 27	May 16, 2011	(939281)
Item 28	June 17, 2011	(946685)
Item 29	July 20, 2011	(953944)
Item 30	September 20, 2011	(966594)
Item 31	October 19, 2011	(972606)
Item 32	November 17, 2011	(978750)
Item 33	December 20, 2011	(985586)
Item 34	January 17, 2012	(991866)
Item 35	February 09, 2012	(999232)
Item 36	March 20, 2012	(1004741)
Item 37	April 17, 2012	(1011323)
Item 38	May 15, 2012	(1017686)
Item 39	June 18, 2012	(1025478)
Item 40	July 19, 2012	(1032809)
Item 41	August 20, 2012	(1039791)
Item 42	September 20, 2012	(1048736)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

1	Date: 05/31/2013 (1112072)	CN603418831	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 05/31/2013 (1111577)	CN603418831	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 11/19/2013 (1116478)	CN603418831	
	Self Report? NO	Classification:	Minor
	Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) General Terms and Condition (GT&C) PERMIT		
	Description: Failure to report PBRs in the FOP as deviations. (Category C3)		
	Self Report? NO	Classification:	Minor
	Citation: 30 TAC Chapter 122, SubChapter B 122.121 30 TAC Chapter 122, SubChapter C 122.210(a) 5C THSC Chapter 382 382.054 5C THSC Chapter 382 382.085(b)		
	Description: NCI failed to incorporate all PBRs into FOP O-01773. (Category C7)		
4	Date: 12/31/2013 (1154507)	CN603418831	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
5	Date: 12/31/2013 (1154987)	CN603418831	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
6	Date: 01/31/2014 (1162302)	CN603418831	
	Self Report? YES	Classification:	Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

- 7 Date: 02/28/2014 (1168927) CN603418831  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter
- 8 Date: 05/15/2014 (1165518) CN603418831  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
5C THSC Chapter 382 382.085(b)  
General Terms and Condition (GT&C) PERMIT  
Description: Failure to report PBRs in the FOP as deviations. (Category C3)

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	6-Oct-2014	<b>Screening</b>	19-Nov-2014	<b>EPA Due</b>	
	<b>PCW</b>	15-Jan-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	NCI Group, Inc.	
<b>Reg. Ent. Ref. No.</b>	RN100213545	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48771	<b>No. of Violations</b>	1
<b>Docket No.</b>	2014-0804-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Farhaud Abbaszadeh
		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
-------------------------------------------------------------	-------------------	---------

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	31.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,325
---------------------------	-------------------	--------------------------------	---------

Notes: Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations, and one order with a denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
------------------------------------------------------	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$137
Estimated Cost of Compliance	\$2,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,825
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---------------------------------------------	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$9,825
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$9,825
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,965
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,860
------------------------	---------

Screening Date 19-Nov-2014

Docket No. 2014-0804-AIR-E

PCW

Respondent NCI Group, Inc.

Policy Revision 4 (April 2014)

Case ID No. 48771

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100213545

Media [Statute] Air

Enf. Coordinator Farhaud Abbaszadeh

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 31%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations, three NOVs with dissimilar violations, and one order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 31%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 31%

Screening Date 19-Nov-2014  
Respondent NCI Group, Inc.  
Case ID No. 48771

Docket No. 2014-0804-AIR-E

PCW

Policy Revision 4 (April 2014)  
PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100213545  
Media [Statute] Air

Enf. Coordinator Farhaud Abbaszadeh

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(C), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit No. O-1773, General Terms and Conditions

Violation Description

Failed to submit two deviation reports no later than 30 days after the end of the reporting period. Specifically, the deviation report for the April 27, 2013 through October 26, 2013 reporting period was due by November 25, 2013 and the deviation report for the October 27, 2013 through April 26, 2014 reporting period was due by May 25, 2014, but they were not submitted until December 20, 2013 and September 12, 2014, respectively.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

109 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$7,500

Two single events are recommended for the delinquent deviation reports.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$137

Violation Final Penalty Total \$9,825

This violation Final Assessed Penalty (adjusted for limits) \$9,825

# Economic Benefit Worksheet

Respondent NCI Group, Inc.  
Case ID No. 48771  
Reg. Ent. Reference No. RN100213545  
Media Air  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0		\$0
Record Keeping System				0.00	\$0		\$0
Training/Sampling	\$1,500	25-Nov-2013	19-Jun-2015	1.56	\$117		\$117
Remediation/Disposal				0.00	\$0		\$0
Permit Costs				0.00	\$0		\$0
Other (as needed)	\$500	25-Nov-2013	12-Sep-2014	0.80	\$20		\$20

Notes for DELAYED costs

Estimated cost to submit the deviation reports and to implement measures and/or procedures to ensure that semi-annual deviation reports are submitted within the required time frame. The Date Required is the date the first deviation report was due. The Final Dates are the estimated date of compliance and date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$137

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN603418831, RN100213545, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603418831, NCI Group, Inc.

**Classification:** SATISFACTORY

**Rating:** 4.92

**Regulated Entity:** RN100213545, NCI BUILDING SYSTEMS

**Classification:** SATISFACTORY

**Rating:** 4.92

**Complexity Points:** 15

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 7301 FAIRVIEW STREET HOUSTON, TEXAS 77041-2105, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER HG1413D

**AIR OPERATING PERMITS** PERMIT 1773

**POLLUTION PREVENTION PLANNING** ID NUMBER P00426

**AIR NEW SOURCE PERMITS** PERMIT 17210

**AIR NEW SOURCE PERMITS** REGISTRATION 48749

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER HG1413D

**AIR NEW SOURCE PERMITS** AFS NUM 4820101258

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1012326

**WASTEWATER** PERMIT WQ0012552001

**WASTEWATER** EPA ID TX0090115

**WASTEWATER** PERMIT WQ0012552002

**WASTEWATER** EPA ID TX0117064

**STORMWATER** PERMIT TXR05M145

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER HG1413D

**Compliance History Period:** September 01, 2009 to August 31, 2014

**Rating Year:** 2014

**Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** January 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 15, 2010 to January 15, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Farhaud Abbaszadeh

**Phone:** (512) 239-0779

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 05/02/2013 ADMINORDER 2012-1847-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.146(2)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:General Terms & Conditions OP  
Description: Failure to submit a PCC form within the 30 day deadline from the end of the compliance period. A12.i.(7)  
Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.247(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:STC No. 5.B. OP

Description: Failure to submit the monthly gasoline throughput for 2010 and 2011 to maintain an exempt status.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:General Terms & Conditions OP

Description: Failure to submit a deviation report within 30 days after the end of the reporting period.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	January 20, 2010	(815109)
Item 2	February 19, 2010	(818767)
Item 3	March 10, 2010	(834494)
Item 4	April 16, 2010	(834495)
Item 5	May 19, 2010	(834496)
Item 6	June 18, 2010	(847382)
Item 7	July 16, 2010	(861818)
Item 8	July 26, 2010	(794243)
Item 9	August 19, 2010	(868242)
Item 10	September 01, 2010	(960537)
Item 11	September 20, 2010	(875157)
Item 12	October 20, 2010	(882769)
Item 13	November 18, 2010	(889174)
Item 14	December 14, 2010	(897551)
Item 15	January 19, 2011	(903442)
Item 16	February 18, 2011	(910356)
Item 17	March 30, 2011	(900091)
Item 18	April 13, 2011	(905484)
Item 19	April 19, 2011	(930175)
Item 20	May 16, 2011	(939281)
Item 21	June 17, 2011	(946685)
Item 22	July 20, 2011	(953944)
Item 23	September 20, 2011	(966594)
Item 24	October 19, 2011	(972606)
Item 25	November 17, 2011	(978750)
Item 26	December 20, 2011	(985586)
Item 27	January 17, 2012	(991866)
Item 28	February 09, 2012	(999232)
Item 29	March 20, 2012	(1004741)
Item 30	April 17, 2012	(1011323)
Item 31	May 15, 2012	(1017686)
Item 32	June 18, 2012	(1025478)
Item 33	July 19, 2012	(1032809)
Item 34	August 20, 2012	(1039791)
Item 35	September 20, 2012	(1048736)
Item 36	September 27, 2012	(1039242)
Item 37	October 16, 2012	(1067345)
Item 38	November 15, 2012	(1067346)
Item 39	December 18, 2012	(1067347)
Item 40	January 15, 2013	(1081692)
Item 41	February 20, 2013	(1082771)
Item 42	March 18, 2013	(1091137)

Item 43	April 15, 2013	(1096984)
Item 44	May 13, 2013	(1028745)
Item 45	May 20, 2013	(1107951)
Item 46	June 14, 2013	(1086042)
Item 47	July 18, 2013	(1118486)
Item 48	August 20, 2013	(1126269)
Item 49	September 18, 2013	(1130820)
Item 50	October 17, 2013	(1136586)
Item 51	November 15, 2013	(1141973)
Item 52	December 19, 2013	(1148431)
Item 53	February 17, 2014	(1161829)
Item 54	March 17, 2014	(1168454)
Item 55	April 15, 2014	(1175617)
Item 56	May 13, 2014	(1181822)
Item 57	June 16, 2014	(1189226)
Item 58	July 10, 2014	(1194343)
Item 59	September 18, 2014	(1207076)
Item 60	September 25, 2014	(1200511)
Item 61	October 20, 2014	(1213481)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1      Date:    01/31/2014    (1162302)                      CN603418831  
Self Report?   YES                                              Classification:    Moderate  
Citation:            2D TWC Chapter 26, SubChapter A 26.121(a)  
                             30 TAC Chapter 305, SubChapter F 305.125(1)  
Description:       Failure to meet the limit for one or more permit parameter
  
- 2      Date:    02/28/2014    (1168927)                      CN603418831  
Self Report?   YES                                              Classification:    Moderate  
Citation:            2D TWC Chapter 26, SubChapter A 26.121(a)  
                             30 TAC Chapter 305, SubChapter F 305.125(1)  
Description:       Failure to meet the limit for one or more permit parameter
  
- 3      Date:    05/15/2014    (1165518)                      CN603418831  
Self Report?   NO                                                Classification:    Minor  
Citation:            30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
                             5C THSC Chapter 382 382.085(b)  
                             General Terms and Condition (GT&C) PERMIT  
Description:       Failure to report PBRs in the FOP as deviations. (Category C3)
  
- 4      Date:    05/31/2014    (1188715)                      CN603418831  
Self Report?   YES                                              Classification:    Moderate  
Citation:            2D TWC Chapter 26, SubChapter A 26.121(a)  
                             30 TAC Chapter 305, SubChapter F 305.125(1)  
Description:       Failure to meet the limit for one or more permit parameter

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NCI GROUP, INC.  
RN100213545**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-0804-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NCI Group, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a pre-engineered metal buildings manufacturing plant located at 7301 Fairview Street in Houston, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about May 20, 2014 and October 6, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand One Hundred Fifty Dollars (\$15,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Sixty Dollars (\$6,060) of the administrative penalty and Three Thousand Thirty Dollars (\$3,030) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand Sixty Dollars (\$6,060) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
  - a. On April 1, 2014, submitted a minor revision application to reference all Permits by Rule ("PBRs") within Federal Operating Permit ("FOP") No. O-1773; and
  - b. By September 12, 2014, submitted the deviation reports for the April 27, 2013 through October 26, 2013 and October 27, 2013 through April 26, 2014 reporting periods that reported the failure to include authorized PBRs in FOP No. O-1773.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have:

1. Failed to reference all PBRs within the FOP, in violation of 30 TEX. ADMIN. CODE §§ 122.121 and 122.210(a) and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during a record review conducted on May 5, 2014. Specifically, the Respondent did not include the PBRs for welding, hand-held machining, degreasers, emergency generators, repairs and maintenance, and wastewater treatment within FOP No. O-1773.

2. Failed to submit two deviation reports no later than 30 days after the end of the reporting period, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(C), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O-1773, General Terms and Conditions, as documented during a record review conducted from September 2, 2014 through September 12, 2014. Specifically, the deviation report for the April 27, 2013 through October 26, 2013 reporting period was due by November 25, 2013 and the deviation report for the October 27, 2013 through April 26, 2014 reporting period was due by May 25, 2014, but they were not submitted until December 20, 2013 and September 12, 2014, respectively.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: NCI Group, Inc., Docket No. 2014-0804-AIR-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand Sixty Dollars (\$6,060) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit revision application for FOP No. O-1773 within 30 days after the date of such requests, or by any other deadline specified in writing;

- b. Within 30 days of this Agreed Order, implement measures and/or procedures to ensure that semi-annual deviation reports are submitted within the required timeframe;
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 3.d. to demonstrate compliance with Ordering Provision No. 3.b.; and
- d. Within 180 days after the effective date of this Agreed Order, submit written certification that either the revision for FOP No. O-1773 has been obtained or that operation of the emission sources under the aforementioned PBRs cease until such time that the FOP is revised. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a., and be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

- 4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to

the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pamela Rowner  
For the Executive Director

6/5/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Todd Harbour  
Signature

5/20/15  
Date

TODD HARBOUR  
Name (Printed or typed)  
Authorized Representative of  
NCI Group, Inc.

V.P. ENVIRONMENTAL AFFAIRS  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2014-0804-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>NCI Group, Inc.</b>
<b>Penalty Amount:</b>	<b>Twelve Thousand One Hundred Twenty Dollars (\$12,120)</b>
<b>SEP Offset Amount:</b>	<b>Six Thousand Sixty Dollars (\$6,060)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>Anahuac Independent School District</b>
<b>Project Name:</b>	<b><i>Clean School Bus Project</i></b>
<b>Location of SEP:</b>	<b>Chambers County; Texas Air Quality Control Region 216, Houston - Galveston</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**a. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Anahuac Independent School District** for the *Clean School Bus Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to purchase a lower-emission school bus that is model year 2010 or newer ("Replacement Bus") to replace a bus that is model year 1995 ("Older Bus"), thus removing the Older Bus from the roads. The Third-Party Administrator shall ensure that the Replacement Bus has an engine that meets 2010 EPA Standards. The Third-Party Administrator certifies that the Older Bus is currently in use, driven on a regular route on a weekly basis for at least the past two years. The Third-Party Administrator shall own and operate the Replacement Bus for at least five years following the date of purchase. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

The SEP will benefit air quality by reducing harmful exhaust emissions from an older school bus. Older school bus engines emit larger amounts of nitrogen oxides and particulate matter, as well as other harmful pollutants such as volatile organic compounds and carbon monoxide than new buses. These pollutants contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma, especially in children. The Project will reduce these emissions by replacing a model year 1995 school bus with a new, lower-emission bus.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Anahuac Independent School District SEP** and shall mail the contribution with a copy of the Agreed Order to:

Anahuac Independent School District  
Attention: Rosie Womack, Business Manager  
P.O. Box 638  
Anahuac, Texas 77514

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

NCI Group, Inc.  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

NCI Group, Inc.  
Agreed Order - Attachment A

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.